

HOUSE BILL NO. 7

INTRODUCED BY D. LEWIS

BY REQUEST OF THE OFFICE OF BUDGET AND PROGRAM PLANNING

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE GENERAL FUND SHORTFALL IN REVENUE BY PLACING DEDICATED PUBLIC SCHOOL REVENUE IN A STATE SPECIAL REVENUE FUND FOR THE SUPPORT OF PUBLIC SCHOOLS CHANGING THE FUND DESIGNATION FOR THE GUARANTEE FUND FROM A SUBFUND OF THE GENERAL FUND TO A STATE SPECIAL REVENUE FUND; PROVIDING A STATUTORY APPROPRIATION; AMENDING SECTIONS ~~17-6-340~~, 17-7-502, ~~20-9-331~~, ~~20-9-333~~, 20-9-342, 20-9-343, ~~20-9-360~~, AND 20-9-622, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~Section 1.~~ Section 17-6-340, MCA, is amended to read:

~~"17-6-340. Purchase of permanent fund mineral estate. The department of natural resources and conservation may purchase the mineral production rights held by the public school fund established in Article X, section 2, of the Montana constitution for fair market value. If the department of natural resources and conservation purchases mineral production rights, any royalty payments received by the board that are not used to reimburse the coal severance tax trust fund for the loan used for purchasing the mineral production rights must be deposited in the guarantee account dedicated school revenue fund provided for in 20-9-622."~~

Section 1. Section 17-7-502, MCA, is amended to read:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory

1 appropriation is made as provided in this section.

2 (3) The following laws are the only laws containing statutory appropriations: 2-15-151; 2-17-105;
3 5-13-403; 10-3-203; 10-3-310; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-1-113; 15-1-121; 15-23-706;
4 15-35-108; 15-36-324; 15-37-117; 15-38-202; 15-65-121; 15-70-101; 17-3-106; 17-3-212; 17-3-222; 17-3-241;
5 17-6-101; 17-7-304; 18-11-112; 19-3-319; 19-9-702; 19-13-604; 19-17-301; 19-18-512; 19-19-305; 19-19-506;
6 19-20-604; 20-8-107; 20-9-534; 20-9-622; 20-26-1503; 22-3-1004; 23-5-136; 23-5-306; 23-5-409; 23-5-612;
7 23-5-631; 23-7-301; 23-7-402; 37-43-204; 37-51-501; 39-71-503; 42-2-105; 44-12-206; 44-13-102; 50-4-623;
8 53-6-703; 53-24-206; 69-8-702; 75-1-1101; 75-5-1108; 75-6-214; 75-11-313; 80-2-222; 80-4-416; 80-5-510;
9 80-11-518; 82-11-161; 87-1-513; 90-3-1003; 90-6-710; and 90-9-306.

10 (4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing,
11 paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued
12 pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana
13 to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state
14 treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory
15 appropriation authority for the payments. (In subsection (3): pursuant to Ch. 422, L. 1997, the inclusion of
16 15-1-111 terminates on July 1, 2008, which is the date that section is repealed; pursuant to sec. 10, Ch. 360,
17 L. 1999, the inclusion of 19-20-604 terminates when the amortization period for the teachers' retirement system's
18 unfunded liability is 10 years or less; pursuant to sec. 4, Ch. 497, L. 1999, the inclusion of 15-38-202 terminates
19 July 1, 2014; pursuant to sec. 10(2), Ch. 10, Sp. L. May 2000, the inclusion of 15-35-108 and 90-6-710
20 terminates June 30, 2005; pursuant to sec. 17, Ch. 414, L. 2001, the inclusion of 2-15-151 terminates December
21 31, 2006; and pursuant to sec. 2, Ch. 594, L. 2001, the inclusion of 17-3-241 becomes effective July 1, 2003.)"

22

23 ~~Section 3. Section 20-9-331, MCA, is amended to read:~~

24 ~~"20-9-331. Basic county tax for elementary equalization and other revenue for county~~
25 ~~equalization of elementary BASE funding program. (1) Subject to 15-10-420, the county commissioners of~~
26 ~~each county shall levy an annual basic county tax of 33 mills on the dollar of the taxable value of all taxable~~
27 ~~property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-521,~~
28 ~~61-3-527, 61-3-529, 61-3-537, 61-3-560 through 61-3-562, 61-3-570, and 67-3-204, for the purposes of~~
29 ~~elementary equalization and state BASE funding program support. The revenue collected from this levy must~~
30 ~~be apportioned to the support of the elementary BASE funding programs of the school districts in the county and~~

1 ~~to the state general dedicated school revenue fund in the following manner:~~

2 ~~——— (a) In order to determine the amount of revenue raised by this levy that is retained by the county, the~~
3 ~~sum of the estimated revenue identified in subsection (2) must be subtracted from the total of the BASE funding~~
4 ~~programs of all elementary districts of the county.~~

5 ~~——— (b) If the basic levy and other revenue prescribed by this section produce more revenue than is required~~
6 ~~to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the~~
7 ~~department of revenue, as provided in 15-1-504, for deposit to the state general dedicated school revenue fund~~
8 ~~immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due~~
9 ~~no later than June 20 of the fiscal year for which the levy has been set.~~

10 ~~——— (2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue~~
11 ~~from the following sources must be used for the equalization of the elementary BASE funding program of the~~
12 ~~county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county~~
13 ~~treasurer in accordance with 20-9-212(1):~~

14 ~~——— (a) the portion of the federal Taylor Grazing Act funds distributed to a county and designated for the~~
15 ~~elementary county equalization fund under the provisions of 17-3-222;~~

16 ~~——— (b) the portion of the federal flood control act funds distributed to a county and designated for~~
17 ~~expenditure for the benefit of the county common schools under the provisions of 17-3-232;~~

18 ~~——— (c) all money paid into the county treasury as a result of fines for violations of law, except money paid~~
19 ~~to a justice's court, and the use of which is not otherwise specified by law;~~

20 ~~——— (d) any money remaining at the end of the immediately preceding school fiscal year in the county~~
21 ~~treasurer's accounts for the various sources of revenue established or referred to in this section;~~

22 ~~——— (e) any federal or state money distributed to the county as payment in lieu of property taxation, including~~
23 ~~federal forest reserve funds allocated under the provisions of 17-3-213;~~

24 ~~——— (f) gross proceeds taxes from coal under 15-23-703; and~~

25 ~~——— (g) oil and natural gas production taxes."~~

26

27 ~~——— **Section 4.** Section 20-9-333, MCA, is amended to read:~~

28 ~~——— "**20-9-333. Basic county tax for high school equalization and other revenue for county**~~
29 ~~**equalization of high school BASE funding program.** (1) Subject to 15-10-420, the county commissioners of~~
30 ~~each county shall levy an annual basic county tax of 22 mills on the dollar of the taxable value of all taxable~~

~~property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-521, 61-3-527, 61-3-529, 61-3-537, 61-3-560 through 61-3-562, 61-3-570, and 67-3-204, for the purposes of high school equalization and state BASE funding program support. The revenue collected from this levy must be apportioned to the support of the BASE funding programs of high school districts in the county and to the state general dedicated school revenue fund in the following manner:~~

~~———(a) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the sum of the county's high school tuition obligation and the total of the BASE funding programs of all high school districts of the county.~~

~~———(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the department of revenue, as provided in 15-1-504, for deposit to the state general dedicated school revenue fund immediately upon occurrence of a surplus balance and each subsequent month, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.~~

~~———(2) The revenue realized from the county's portion of the levy prescribed in this section and the revenue from the following sources must be used for the equalization of the high school BASE funding program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):~~

~~———(a) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established in this section;~~

~~———(b) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;~~

~~———(c) gross proceeds taxes from coal under 15-23-703; and~~

~~———(d) oil and natural gas production taxes."~~

Section 2. Section 20-9-342, MCA, is amended to read:

"20-9-342. Deposit of interest and income money by state board of land commissioners. The state board of land commissioners shall annually deposit the interest and income money for each calendar year into ~~a subfund of the state general the dedicated school revenue fund~~ GUARANTEE ACCOUNT, PROVIDED FOR IN 20-9-622, for state equalization aid by the last business day of February following the calendar year in which the money was received."

1

2 **Section 3.** Section 20-9-343, MCA, is amended to read:

3 **"20-9-343. Definition of and revenue for state equalization aid.** (1) As used in this title, the term

4 "state equalization aid" means revenue as required in this section for:

5 (a) distribution to the public schools for guaranteed tax base aid, BASE aid, state reimbursement for
6 school facilities, and grants for school technology purchases; and

7 (b) negotiated payments authorized under 20-7-420(3) up to \$500,000 a biennium.

8 (2) The superintendent of public instruction may spend throughout the biennium funds appropriated for
9 the purposes of guaranteed tax base aid, BASE aid for the BASE funding program, state reimbursement for
10 school facilities, negotiated payments authorized under 20-7-420(3), and school technology purchases.

11 (3) The following money must be paid into ~~a subfund of the state general~~ the dedicated school revenue
12 fund GUARANTEE ACCOUNT, PROVIDED FOR IN 20-9-622, for the public schools of the state as indicated:

13 (a) (i) subject to subsection (3)(a)(ii), interest and income money described in 20-9-341 and 20-9-342;
14 and

15 (ii) an amount of money equal to the income money attributable to the difference between the average
16 sale value of 18 million board feet and the total income produced from the annual timber harvest on common
17 school trust lands during the fiscal year ~~to the school technology account in the state special revenue fund~~, which
18 is statutorily appropriated, pursuant to 20-9-534, to be used for the purposes of 20-9-533;

19 (b) investment income earned by investing interest and income money described in 20-9-331, 20-9-333,
20 20-9-341, and 20-9-342."

21

22 ~~**Section 7.** Section 20-9-360, MCA, is amended to read:~~

23 ~~**"20-9-360. State equalization aid levy.** Subject to 15-10-420, there is a levy of 40 mills imposed by
24 the county commissioners of each county on all taxable property within the state, except property for which a
25 tax or fee is required under 23-2-517, 23-2-803, 61-3-521, 61-3-527, 61-3-529, 61-3-537, 61-3-560 through
26 61-3-562, 61-3-570, and 67-3-204. Proceeds of the levy must be remitted to the department of revenue, as
27 provided in 15-1-504, and must be deposited to the credit of the state general dedicated school revenue fund
28 for state equalization aid to the public schools of Montana."~~

29

30 **Section 4.** Section 20-9-622, MCA, is amended to read:

"20-9-622. ~~Guarantee account Dedicated school revenue fund~~ GUARANTEE ACCOUNT. (1) There is

~~a guarantee account dedicated school revenue fund GUARANTEE ACCOUNT~~ in a subfund of the state ~~general~~
~~special revenue~~ fund. The ~~guarantee account dedicated school revenue fund GUARANTEE ACCOUNT~~ is intended
 to:

~~(a) account for revenue dedicated by law or the constitution for the support of public schools, including
 investment income on the revenue;~~

~~(b)(A)~~ stabilize the long-term growth of the permanent fund; and

~~(c)(B)~~ to maintain a constant and increasing distributable revenue stream. All realized capital gains and
 all distributable revenue must be deposited in the ~~guarantee account dedicated school revenue fund GUARANTEE~~
~~ACCOUNT~~. Except as provided in ~~subsection subsections~~ (2) and (3), the ~~guarantee account must be distributed~~
~~dedicated school revenue fund GUARANTEE ACCOUNT~~ is statutorily appropriated, as provided in 17-7-502, for
 distribution to school districts through the basic and per-ANB entitlements ~~SCHOOLEQUALIZATION AID AS PROVIDED~~
 IN 20-9-343.

(2) As long as a portion of the coal severance tax loan authorized in section 8, Chapter 418, Laws of
 2001, is outstanding, the department of natural resources and conservation shall annually transfer from the
~~guarantee account dedicated school revenue fund GUARANTEE ACCOUNT~~ to the general fund an amount that
 represents the amount of interest income that would be earned from the investment of the amount of the loan
 that is outstanding in the prior year.

(3) The revenue distributed through 20-9-534 must be used for the purposes of 20-9-533."

NEW SECTION. SECTION 5. COORDINATION INSTRUCTION. (1) IF [THIS ACT] AND HOUSE BILL NO. 4 ARE BOTH
 PASSED AND APPROVED AND BOTH BILLS CONTAIN A SECTION AMENDING 20-9-343, THEN THE COORDINATION
 INSTRUCTION IN HOUSE BILL NO. 4 IS VOID AND SECTION 20-9-343 MUST READ AS FOLLOWS:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term
 "state equalization aid" means revenue as required in this section for:

(a) distribution to the public schools for guaranteed tax base aid, BASE aid, state reimbursement for
 school facilities, and grants for school technology purchases; and

(b) negotiated payments authorized under 20-7-420(3) up to \$500,000 a biennium.

(2) The superintendent of public instruction may spend throughout the biennium funds appropriated for
 the purposes of guaranteed tax base aid, BASE aid for the BASE funding program, state reimbursement for

1 school facilities, negotiated payments authorized under 20-7-420(3), and school technology purchases.

2 (3) ~~The~~ From July 1, 2001, through June 30, 2003, the following money must be paid into ~~a subfund~~
3 ~~of the state general fund~~ the guarantee account provided for in 20-9-622 for the public schools of the state as
4 indicated:

5 (a) ~~(i) subject to subsection (3)(a)(ii);~~ interest and income money described in 20-9-341 and 20-9-342;
6 and

7 ~~(ii) an amount of money equal to the income money attributable to the difference between the average~~
8 ~~sale value of 18 million board feet and the total income produced from the annual timber harvest on common~~
9 ~~school trust lands during the fiscal year to the school technology account in the state special revenue fund, which~~
10 ~~is statutorily appropriated, pursuant to 20-9-534, to be used for the purposes of 20-9-533;~~

11 (b) investment income earned by investing interest and income money described in 20-9-341 and
12 20-9-342.

13 (4) Beginning July 1, 2003, the following money must be paid into the guarantee account provided for
14 in 20-9-622 for the public schools of the state as indicated:

15 (a) (i) subject to subsection (4)(a)(ii), interest and income money described in 20-9-341 and 20-9-342;
16 and

17 (ii) an amount of money equal to the income money attributable to the difference between the average
18 sale value of 18 million board feet and the total income produced from the annual timber harvest on common
19 school trust lands during the fiscal year, which is statutorily appropriated, pursuant to 20-9-534, to be used for
20 the purposes of 20-9-533;

21 (b) investment income earned by investing interest and income money described in 20-9-341 and
22 20-9-342."

23 (2) IF [THIS ACT] IS PASSED AND APPROVED BUT HOUSE BILL NO. 4 IS NOT PASSED AND APPROVED, THEN
24 SECTION 20-9-534, MUST READ AS FOLLOWS:

25 **"20-9-534. School technology purchases.** By September 1, the superintendent of public instruction
26 shall allocate the annual amount for grants for school technology purchases to each district based on the ratio
27 that each district's BASE budget bears to the statewide BASE budget amount for all school districts multiplied
28 by the amount of money provided in ~~20-9-343(3)(a)(ii)~~ 20-9-343(4)(a)(ii) in the prior fiscal year. The grants for
29 school technology purchases are statutorily appropriated, as provided in 17-7-502."

30 (3) IF [THIS ACT] IS PASSED AND APPROVED BUT HOUSE BILL NO. 4 IS NOT PASSED AND APPROVED, THEN

1 SECTION 20-9-620 MUST READ AS FOLLOWS:

2 **"20-9-620. Definition.** (1) As used in 20-9-621, 20-9-622, and this section, "distributable revenue"
3 means, except for that portion of revenue described in ~~20-9-343(3)(a)(ii)~~ 20-9-343(4)(a)(ii), 77-1-607, and
4 77-1-613, 95% of all revenue from the management of school trust lands and the permanent fund, including
5 timber sale proceeds, lease fees, interest, dividends, and net realized capital gains.

6 (2) The term does not include mineral royalties or land sale proceeds that are deposited directly in the
7 permanent fund or net unrealized capital gains that remain in the permanent fund until realized."

8

9 NEW SECTION. **Section 6. Effective date -- retroactive applicability.** [This act] is effective on
10 passage and approval and applies retroactively, within the meaning of 1-2-109, to the fiscal year beginning July
11 1, 2001.

12

- END -